

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 495**

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**Introduced by Senator Fuller**

February 17, 2011

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An act to amend Sections *1513*, *1513.5*, *1514*, *1516*, *1518*, *1520*, *1540*, and *1565* of, and to add Section *1576.5* to, the Code of Civil Procedure, relating to unclaimed property, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 495, as amended, Fuller. Unclaimed property.

(1) Existing law provides that the contents of a safe deposit box, or the proceeds of their sale, held in this state by a business association escheat to the state if unclaimed by the owner for more than 3 years, as specified. Existing law requires the business association to provide notice to the apparent owner of the contents no less than 6 months and not less than 4 months before the contents become reportable as escheated property and to provide a specified notice.

This bill would lengthen the period for the escheat of the contents of a safe deposit box, as described above, to 5 years. The bill would additionally require a business association to provide notice to the apparent owner of the contents no less than 2 ½ years and not more than 3 years before the contents become reportable. The bill would require the notice also to include a prescribed form, by which the customer may declare an intention to maintain the safe deposit box, as specified, or otherwise take possession of the property, which, if properly returned to the business association, would be considered as a claim for the safe deposit box or other safekeeping repository and the contents shall not escheat. The bill would permit the business association to substitute an

electronic process for the notice and permit the association to impose a service fee in this regard. *The bill would specify additional circumstances under which certain funds in retirement accounts and plans become due and payable for purposes of escheat.* The bill would also require the Controller to establish a program to identify holders of unclaimed property who are not in compliance with specified unclaimed property report filing requirements. *The bill would make additional technical changes.*

(2) Existing law provides that any person who claims an interest in escheated property paid or delivered to the Controller may file a claim on the property or to the net proceeds from its sale. Existing law provides that no interest shall be paid on these claims. Existing law requires that all money received pursuant to the Unclaimed Property Law, including proceeds from the sale of property, be deposited in the Abandoned Property Account in the Unclaimed Property Fund, which is continuously appropriated. Existing law permits these moneys to be used for the payment of claims.

This bill would require that the Controller shall add interest at the lower of 2 specified rates to the amount of any claim paid to the owner for the period the property was on deposit in the Unclaimed Property Fund. By providing that moneys in a continuously appropriated fund be used for a new purpose, this bill would make an appropriation. The bill would also require a former holder of property who compensates the owner of the property that has escheated and been remitted to the state to also pay interest to the owner, for which the owner would apply to the Controller for reimbursement.

(3) Existing law requires that property delivered to the Controller that has no apparent commercial value be retained for a period of not less than 18 months from the date the property is delivered.

This bill would require that this property be retained for a period of not less than 7 years.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1513 of the Code of Civil Procedure is  
2     amended to read:

1 1513. (a) Subject to Sections 1510 and 1511, the following  
2 property held or owing by a business association escheats to this  
3 state:

4 (1) (A) Except as provided in paragraph (6), any demand,  
5 savings, or matured time deposit, or account subject to a negotiable  
6 order of withdrawal, made with a banking organization, together  
7 with any interest or dividends thereon, excluding, from demand  
8 deposits and accounts subject to a negotiable order of withdrawal  
9 only, any reasonable service charges that may lawfully be withheld  
10 and that do not (where made in this state) exceed those set forth  
11 in schedules filed by the banking organization from time to time  
12 with the Controller, when the owner, for more than three years,  
13 has not done any of the following:

14 (i) Increased or decreased the amount of the deposit, cashed an  
15 interest check, or presented the passbook or other similar evidence  
16 of the deposit for the crediting of interest.

17 (ii) Corresponded electronically or in writing with the banking  
18 organization concerning the deposit.

19 (iii) Otherwise indicated an interest in the deposit as evidenced  
20 by a memorandum or other record on file with the banking  
21 organization.

22 (B) A deposit or account shall not, however, escheat to the state  
23 if, during the previous three years, the owner has owned another  
24 deposit or account with the banking organization or the owner has  
25 owned an individual retirement account or funds held by the  
26 banking organization under a retirement plan for self-employed  
27 individuals or a similar account or plan established pursuant to the  
28 internal revenue laws of the United States or the laws of this state,  
29 as described in paragraph (6), and, with respect to that deposit,  
30 account, or plan, the owner has done any of the acts described in  
31 clauses (i), (ii) or (iii) of subparagraph (A), and the banking  
32 organization has communicated electronically or in writing with  
33 the owner, at the address to which communications regarding that  
34 deposit, account, or plan are regularly sent, with regard to the  
35 deposit, account, or plan that would otherwise escheat under  
36 subparagraph (A). For purposes of this subparagraph,  
37 “communications” includes account statements or statements  
38 required under the internal revenue laws of the United States.

1 (C) No banking organization may discontinue any interest or  
2 dividends on any savings deposit because of the inactivity  
3 contemplated by this section.

4 (2) (A) Except as provided in paragraph (6), any demand,  
5 savings, or matured time deposit, or matured investment certificate,  
6 or account subject to a negotiable order of withdrawal, or other  
7 interest in a financial organization or any deposit made therewith,  
8 and any interest or dividends thereon, excluding, from demand  
9 deposits and accounts subject to a negotiable order of withdrawal  
10 only, any reasonable service charges that may lawfully be withheld  
11 and that do not (where made in this state) exceed those set forth  
12 in schedules filed by the financial organization from time to time  
13 with the Controller, when the owner, for more than three years,  
14 has not done any of the following:

15 (i) Increased or decreased the amount of the funds or deposit,  
16 cashed an interest check, or presented an appropriate record for  
17 the crediting of interest or dividends.

18 (ii) Corresponded electronically or in writing with the financial  
19 organization concerning the funds or deposit.

20 (iii) Otherwise indicated an interest in the funds or deposit as  
21 evidenced by a memorandum or other record on file with the  
22 financial organization.

23 (B) A deposit or account shall not, however, escheat to the state  
24 if, during the previous three years, the owner has owned another  
25 deposit or account with the financial organization or the owner  
26 has owned an individual retirement account or funds held by the  
27 financial organization under a retirement plan for self-employed  
28 individuals or a similar account or plan established pursuant to the  
29 internal revenue laws of the United States or the laws of this state,  
30 as described in paragraph (6), and, with respect to that deposit,  
31 account, or plan, the owner has done any of the acts described in  
32 clauses (i), (ii) or (iii) of subparagraph (A), and the financial  
33 organization has communicated electronically or in writing with  
34 the owner, at the address to which communications regarding that  
35 deposit, account, or plan are regularly sent, with regard to the  
36 deposit, account, or plan that would otherwise escheat under  
37 subparagraph (A). For purposes of this subparagraph,  
38 “communications” includes account statements or statements  
39 required under the internal revenue laws of the United States.

1 (C) No financial organization may discontinue any interest or  
2 dividends on any funds paid toward purchase of shares or other  
3 interest, or on any deposit, because of the inactivity contemplated  
4 by this section.

5 (3) Any sum payable on a traveler's check issued by a business  
6 association that has been outstanding for more than 15 years from  
7 the date of its issuance, when the owner, for more than 15 years,  
8 has not corresponded in writing with the business association  
9 concerning it, or otherwise indicated an interest as evidenced by  
10 a memorandum or other record on file with the association.

11 (4) Any sum payable on any other written instrument on which  
12 a banking or financial organization is directly liable, including, by  
13 way of illustration but not of limitation, any draft, cashier's check,  
14 teller's check, or certified check, that has been outstanding for  
15 more than three years from the date it was payable, or from the  
16 date of its issuance if payable on demand, when the owner, for  
17 more than three years, has not corresponded electronically or in  
18 writing with the banking or financial organization concerning it,  
19 or otherwise indicated an interest as evidenced by a memorandum  
20 or other record on file with the banking or financial organization.

21 (5) Any sum payable on a money order issued by a business  
22 association (including a banking or financial organization), that  
23 has been outstanding for more than seven years from the date it  
24 was payable, or from the date of its issuance if payable on demand,  
25 excluding any reasonable service charges that may lawfully be  
26 withheld and that do not, when made in this state, exceed those  
27 set forth in schedules filed by the business association from time  
28 to time with the Controller, when the owner, for more than seven  
29 years, has not corresponded electronically or in writing with the  
30 business association, banking, or financial organization concerning  
31 it, or otherwise indicated an interest as evidenced by a  
32 memorandum or other record on file with the business association.  
33 For the purposes of this subdivision, "reasonable service charge"  
34 means a service charge that meets all of the following requirements:

35 (A) It is uniformly applied to all of the issuer's money orders.

36 (B) It is clearly disclosed to the purchaser at the time of purchase  
37 and to the recipient of the money order.

38 (C) It does not begin to accrue until three years after the  
39 purchase date, and it stops accruing after the value of the money  
40 order escheats.

1 (D) It is permitted by contract between the issuer and the  
2 purchaser.

3 (E) It does not exceed 25 cents (\$0.25) per month or the  
4 aggregate amount of twenty-one dollars (\$21).

5 (6) (A) Any funds held by a business association in an  
6 individual retirement account or under a retirement plan for  
7 self-employed individuals or similar account or plan established  
8 pursuant to the internal revenue laws of the United States or of  
9 this state, when the owner, for more than three years after the funds  
10 become payable or distributable, has not done any of the following:

11 (i) Increased or decreased the principal.

12 (ii) Accepted payment of principal or income.

13 (iii) Corresponded electronically or in writing concerning the  
14 property or otherwise indicated an interest.

15 (B) Funds held by a business association in an individual  
16 retirement account or under a retirement plan for self-employed  
17 individuals or a similar account or plan created pursuant to the  
18 internal revenue laws of the United States or the laws of this state  
19 shall not escheat to the state if, during the previous three years,  
20 the owner has owned another such account or plan with the  
21 business association and, with respect to that account or plan, the  
22 owner has done any of the acts described in clause (i), (ii), or (iii)  
23 of subparagraph (A), and the business association has  
24 communicated electronically or in writing with the owner, at the  
25 address to which communications regarding that account or plan  
26 are regularly sent, with regard to the account or plan that would  
27 otherwise escheat under subparagraph (A). For purposes of this  
28 subparagraph, “communications” includes account statements or  
29 statements required under the internal revenue laws of the United  
30 States.

31 (C) These funds are not payable or distributable within the  
32 meaning of this subdivision ~~unless, under the terms of the account~~  
33 ~~or plan, distribution of all or a part of the funds would then be~~  
34 ~~mandatory. unless either of the following is true:~~

35 (i) *Under the terms of the account or plan, distribution of all*  
36 *or a part of the funds would then be mandatory.*

37 (ii) *For an account or plan not subject to mandatory distribution*  
38 *requirement under the internal revenue laws of the United States*  
39 *or the laws of this state, the owner has attained 70½ years of age.*

(7) Any wages or salaries that have remained unclaimed by the owner for more than one year after the wages or salaries become payable.

(b) For purposes of this section “service charges” means service charges imposed because of the inactivity contemplated by this section.

*SEC. 2. Section 1513.5 of the Code of Civil Procedure is amended to read:*

1513.5. (a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder’s records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify any owner by mail or, if the owner has consented to electronic notice, electronically, that the owner’s deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A) of paragraphs (1), (2), or (6) of subdivision (a) of Section 1513. The holder shall give notice either:

(1) Not less than two years nor more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the banking or financial organization.

(2) Not less than six nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. The face of the notice shall contain a heading at the top that reads as follows: “THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US,” or substantially similar language. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no owner activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which

1 need not exceed four digits; (3) indicate that the deposit, account,  
2 shares, or other interest is in danger of escheating to the state; and  
3 (4) specify that the California Unclaimed Property Law requires  
4 ~~banks, banking organizations,~~ and financial organizations to  
5 transfer funds of a deposit, account, shares, or other interest if it  
6 has been inactive for three years. It shall also include a form, as  
7 prescribed by the Controller, by which the owner may declare an  
8 intention to maintain the deposit, account, shares, or other interest.  
9 If that form is filled out, signed by the owner, and returned to the  
10 banking or financial organization, it shall satisfy the requirement  
11 of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of  
12 subparagraph (A) of paragraph (2), or clause (iii) of subparagraph  
13 (A) of paragraph (6) of subdivision (a) of Section 1513. In lieu of  
14 returning the form, the banking or financial organization may  
15 provide a telephone number or other electronic means to enable  
16 the owner to contact that organization. The contact, as evidenced  
17 by a memorandum or other record on file with the banking or  
18 financial organization, shall satisfy the requirement of clause (iii)  
19 of subparagraph (A) of paragraph (1), clause (iii) of subparagraph  
20 (A) of paragraph (2), or clause (iii) of subparagraph (A) of  
21 paragraph (6) of subdivision (a) of Section 1513. The banking or  
22 financial organization may impose a service charge on the deposit,  
23 account, shares, or other interest for this notice in an amount not  
24 to exceed the administrative cost of mailing or electronically  
25 sending the notice and form and in no case to exceed two dollars  
26 (\$2).

27 (c) Notice as provided by subdivisions (a) and (b) shall not be  
28 required for deposits, accounts, shares, or other interests of less  
29 than fifty dollars (\$50), and no service charge may be made for  
30 notice on these items.

31 (d) In addition to the notices required pursuant to subdivision  
32 (a), the holder may give additional notice as described in  
33 subdivision (b) at any time between the date of last activity by, or  
34 communication with, the owner and the date the holder transfers  
35 the deposit, account, shares, or other interest to the Controller.

36 (e) At the time a new account is opened with a banking or  
37 financial organization, the organization shall provide a written  
38 notice to the person opening the account informing the person that  
39 his or her property may be transferred to the appropriate state if  
40 no activity occurs in the account within the time period specified



1 by state law. If the person opening the account has consented to  
2 electronic notice, that notice may be provided electronically. This  
3 subdivision shall become effective on January 1, 2011.

4 ~~SECTION 4.~~

5 *SEC. 3.* Section 1514 of the Code of Civil Procedure is  
6 amended to read:

7 1514. (a) The contents of, or the proceeds of sale of the  
8 contents of, any safe deposit box or any other safekeeping  
9 repository, held in this state by a business association, escheat to  
10 this state if unclaimed by the owner for more than five years from  
11 the date on which the lease or rental period on the box or other  
12 repository expired, or from the date of termination of any  
13 agreement because of which the box or other repository was  
14 furnished to the owner without cost, whichever last occurs.

15 (b) If a business association has in its records an address for an  
16 apparent owner of the contents of, or the proceeds of sale of the  
17 contents of, a safe deposit box or other safekeeping repository  
18 described in subdivision (a), and the records of the business  
19 association do not disclose the address to be inaccurate, the  
20 business association shall make reasonable efforts to notify the  
21 owner by mail, or, if the owner has consented to electronic notice,  
22 electronically, that the owner's contents, or the proceeds of the  
23 sale of the contents, will escheat to the state pursuant to this section.  
24 The business association shall give notice at each of the following  
25 two times before the date the contents become reportable to the  
26 Controller in accordance with this chapter:

27 (1) Not less than two and one-half years and not more than three  
28 years before that date.

29 (2) Not less than six *months* and not more than 12 months before  
30 that date.

31 (c) The face of the notice shall contain a heading at the top that  
32 reads as follows: "THE STATE OF CALIFORNIA REQUIRES  
33 US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY  
34 MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT  
35 CONTACT US," or substantially similar language. The notice  
36 required by this subdivision shall specify the date that the property  
37 will escheat and the effects of escheat, including the necessity for  
38 filing a claim for the return of the property. The notice required  
39 by this section shall, in boldface type or in a font a minimum of

1 two points larger than the rest of the notice, exclusive of the  
2 heading, do all of the following:

3 (1) Identify the safe deposit box or other safekeeping repository  
4 by number or identifier.

5 (2) State that the lease or rental period on the box or repository  
6 has expired or the agreement has terminated.

7 (3) Indicate that the contents of, or the proceeds of sale of the  
8 contents of, the safe deposit box or other safekeeping repository  
9 will escheat to the state unless the owner requests the contents or  
10 their proceeds.

11 (4) Specify that the California Unclaimed Property Law requires  
12 business associations to transfer the contents of, or the proceeds  
13 of sale of the contents of, a safe deposit box or other safekeeping  
14 repository to the Controller if they remain unclaimed for more  
15 than five years.

16 (5) Advise the owner to make arrangements with the business  
17 association to either obtain possession of the contents of, or the  
18 proceeds of sale of the contents of, the safe deposit box or other  
19 safekeeping repository, or enter into a new agreement with the  
20 business association to establish a leasing or rental arrangement.  
21 If an owner fails to establish such an arrangement prior to the end  
22 of the period described in subdivision (a), such contents or proceeds  
23 shall escheat to this state.

24 (d) The notice shall also include a form, as prescribed by the  
25 Controller, by which the customer may declare an intention to  
26 maintain the safe deposit box or other safekeeping repository by  
27 either renewing the lease, rental period, or agreement, or otherwise  
28 taking possession of property from the business association. If that  
29 form is filled out, signed by the customer, and returned to the  
30 business association, it shall be considered as a claim for the safe  
31 deposit box or other safekeeping repository and the contents shall  
32 not escheat. In lieu of returning the form, the business association  
33 may provide a telephone number or other electronic means to  
34 enable the owner to contact that organization. The contact, as  
35 evidenced by a memorandum or other record on file with the  
36 business association, shall be considered as a claim for the safe  
37 deposit box or other safekeeping repository and the contents shall  
38 not escheat. The business association may impose a service charge  
39 on the safe deposit box or other safekeeping repository for this  
40 notice in an amount not to exceed the administrative cost of mailing

1 the notice and form, and in no case to exceed two dollars (\$2) per  
2 notice required by this section.

3 (e) In addition to the notice required pursuant to subdivision  
4 (b), the business association may give additional notice in  
5 accordance with subdivision (c) at any time between the date on  
6 which the lease or rental period for the safe deposit box or  
7 repository expired, or from the date of the termination of any  
8 agreement, through which the box or other repository was furnished  
9 to the owner without cost, whichever is earlier, and the date the  
10 business association transfers the contents of, or the proceeds of  
11 sale of the contents of, the safe deposit box or other safekeeping  
12 repository to the Controller.

13 (f) The contents of, or the proceeds of sale of the contents of, a  
14 safe deposit box or other safekeeping repository shall not escheat  
15 to the state if, as of June 30 or the fiscal yearend next preceding  
16 the date on which a report is required to be filed under Section  
17 1530, the owner has owned, with a banking organization providing  
18 the safe deposit box or other safekeeping repository, any demand,  
19 savings, or matured time deposit, or account subject to a negotiable  
20 order of withdrawal, which has not escheated under Section 1513  
21 and is not reportable under subdivision (d) of Section 1530.

22 (g) The contents of, or the proceeds of sale of the contents of,  
23 a safe deposit box or other safekeeping repository shall not escheat  
24 to the state if, as of June 30 or the fiscal yearend next preceding  
25 the date on which a report is required to be filed under Section  
26 1530, the owner has owned, with a financial organization providing  
27 the safe deposit box or other safekeeping repository, any demand,  
28 savings, or matured time deposit, or matured investment certificate,  
29 or account subject to a negotiable order of withdrawal, or other  
30 interest in a financial organization or any deposit made therewith,  
31 and any interest or dividends thereon, which has not escheated  
32 under Section 1513 and is not reportable under subdivision (d) of  
33 Section 1530.

34 (h) The contents of, or the proceeds of sale of the contents of,  
35 a safe deposit box or other safekeeping repository shall not escheat  
36 to the state if, as of June 30 or the fiscal yearend next preceding  
37 the date on which a report is required to be filed under Section  
38 1530, the owner has owned, with a banking or financial  
39 organization providing the safe deposit box or other safekeeping  
40 repository, any funds in an individual retirement account or under

1 a retirement plan for self-employed individuals or similar account  
2 or plan pursuant to the internal revenue laws of the United States  
3 or the income tax laws of this state, which has not escheated under  
4 Section 1513 and is not reportable under subdivision (d) of Section  
5 1530.

6 (i) In the event the owner is in default under the safe deposit  
7 box or other safekeeping repository agreement and the owner has  
8 owned any demand, savings, or matured time deposit, account, or  
9 plan described in subdivisions (f), (g), or (h), the banking or  
10 financial organization may pay or deliver the contents of, or the  
11 proceeds of sale of the contents of, the safe deposit box or other  
12 safekeeping repository to the owner after deducting any amount  
13 due and payable from those proceeds under that agreement. Upon  
14 making that payment or delivery under ~~these subdivisions~~ *this*  
15 *subdivision*, the banking or financial organization shall be relieved  
16 of all liability to the extent of the value of those contents or  
17 proceeds.

18 (j) For new accounts opened for a safe deposit box or other  
19 safekeeping repository with a business association on and after  
20 January 1, 2011, the business association shall provide a written  
21 notice to the person leasing the safe deposit box or safekeeping  
22 repository informing the person that his or her property, or the  
23 proceeds of sale of such property, may be transferred to the  
24 appropriate state upon running of the time period specified by state  
25 law from the date the lease or rental period on the safe deposit box  
26 or repository expired, or from the date of termination of any  
27 agreement because of which the box or other repository was  
28 furnished to the owner without cost, whichever is earlier. *If the*  
29 *person opening the account consented to electronic notice, that*  
30 *notice may be provided electronically.*

31 (k) A business association may directly escheat the contents of  
32 a safe deposit box or other safekeeping repository without  
33 exercising its rights under Article 2 (commencing with Section  
34 1660) of Chapter 13 of Division 1 of the Financial Code.

35 *SEC. 4. Section 1516 of the Code of Civil Procedure is*  
36 *amended to read:*

37 1516. (a) Subject to Section 1510, any dividend, profit,  
38 distribution, interest, payment on principal, or other sum held or  
39 owing by a business association for or to its shareholder, certificate  
40 holder, member, bondholder, or other security holder, or a

1 participating patron of a cooperative, who has not claimed it, or  
2 corresponded in writing with the business association concerning  
3 it, within three years after the date prescribed for payment or  
4 delivery, escheats to this state.

5 (b) Subject to Section 1510, any intangible interest in a business  
6 association, as evidenced by the stock records or membership  
7 records of the association, escheats to this state if (1) the interest  
8 in the association is owned by a person who for more than three  
9 years has neither claimed a dividend or other sum referred to in  
10 subdivision (a) nor corresponded in writing with the association  
11 or otherwise indicated an interest as evidenced by a memorandum  
12 or other record on file with the association, and (2) the association  
13 does not know the location of the owner at the end of the three-year  
14 period. With respect to the interest, the business association shall  
15 be deemed the holder.

16 (c) Subject to Section 1510, any dividends or other distributions  
17 held for or owing to a person at the time the stock or other security  
18 to which they attach escheats to this state also escheat to this state  
19 as of the same time.

20 (d) If the business association has in its records an address for  
21 the apparent owner, which the business association's records do  
22 not disclose to be inaccurate, with respect to any interest that may  
23 escheat pursuant to subdivision (b), the business association shall  
24 make reasonable efforts to notify the owner by mail or, if the owner  
25 has consented to electronic notice, electronically, that the owner's  
26 interest in the business association will escheat to the state. The  
27 notice shall be given not less than 6 nor more than 12 months  
28 before the time the interest in the business association becomes  
29 reportable to the Controller in accordance with this chapter. The  
30 face of the notice shall contain a heading at the top that reads as  
31 follows: "THE STATE OF CALIFORNIA REQUIRES US TO  
32 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY  
33 BE TRANSFERRED TO THE STATE IF YOU DO NOT  
34 CONTACT US," or substantially similar language. The notice  
35 required by this subdivision shall specify the time that the interest  
36 will escheat and the effects of escheat, including the necessity for  
37 filing a claim for the return of the interest. The notice required by  
38 this section shall, in boldface type or in a font a minimum of two  
39 points larger than the rest of the notice, exclusive of the heading,  
40 (1) specify that since the date of last activity, or for the last two

1 years, there has been no ~~customer~~ *owner* activity on the deposit,  
2 account, shares, or other interest; (2) identify the deposit, account,  
3 shares, or other interest by number or identifier, which need not  
4 exceed four digits; (3) indicate that the deposit, account, shares,  
5 or other interest is in danger of escheating to the state; and (4)  
6 specify that the California Unclaimed Property Law requires ~~banks,~~  
7 ~~banking organizations, and financial organizations~~ *business*  
8 *associations* to transfer funds of a deposit, account, shares, or other  
9 interest if it has been inactive for three years. It shall also include  
10 a form, as prescribed by the Controller, by which the owner may  
11 confirm the owner's current address. If that form is filled out,  
12 signed by the owner, and returned to the holder, it shall be deemed  
13 that the business association knows the location of the owner. In  
14 lieu of returning the form, the business association may provide a  
15 telephone number or other electronic means to enable the owner  
16 to contact the association. With that contact, as evidenced by a  
17 memorandum or other record on file with the business association,  
18 the business association shall be deemed to know the location of  
19 the owner. The business association may impose a service charge  
20 on the deposit, account, shares, or other interest for this notice and  
21 form in an amount not to exceed the administrative cost of mailing  
22 or electronically sending the notice and form, and in no case to  
23 exceed two dollars (\$2).

24 (e) In addition to the notice required pursuant to subdivision  
25 (d), the holder may give additional notice as described in  
26 subdivision (d) at any time between the date of last activity by, or  
27 communication with, the owner and the date the holder transfers  
28 the deposit, shares, or other interest to the Controller.

29 *SEC. 5. Section 1518 of the Code of Civil Procedure is*  
30 *amended to read:*

31 1518. (a) All tangible personal property located in this state  
32 and, subject to Section 1510, all intangible personal property, and  
33 the income or increment on such tangible or intangible property,  
34 held in a fiduciary capacity for the benefit of another person  
35 escheats to this state if after it becomes payable or distributable,  
36 the owner has not, within a period of three years, increased or  
37 decreased the principal, accepted payment of principal or income,  
38 corresponded in writing concerning the property, or otherwise  
39 indicated an interest as evidenced by a memorandum or other  
40 record on file with the fiduciary.

(b) Funds in an individual retirement account or a retirement plan for self-employed individuals or similar account or plan established pursuant to the internal revenue laws of the United States or of this state are not payable or distributable within the meaning of subdivision (a) ~~unless, under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.~~ *unless either of the following is true:*

(1) *Under the terms of the account or plan, distribution of all or part of the funds would then be mandatory.*

(2) *For an account or plan not subject to mandatory distribution requirement under the internal revenue laws of the United States or the laws of this state, the owner has attained 70½ years of age.*

(c) For the purpose of this section, when a person holds property as an agent for a business association, he or she is deemed to hold the property in a fiduciary capacity for the business association alone, unless the agreement between him or her and the business association clearly provides the contrary. For the purposes of this chapter, if a person holds property in a fiduciary capacity for a business association alone, he or she is the holder of the property only insofar as the interest of the business association in the property is concerned and the association is deemed to be the holder of the property insofar as the interest of any other person in the property is concerned.

*SEC. 6. Section 1520 of the Code of Civil Procedure is amended to read:*

1520. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to this state.

(b) Except as provided in subdivision (a) of Section 1513.5, subdivision (b) of Section 1514, and subdivision (d) of Section 1516, if the holder has in its records an address for the apparent owner of property valued at fifty dollars (\$50) or more, which the holder's records do not disclose to be inaccurate, the holder shall make reasonable efforts to notify the owner by mail or, if the owner has consented to electronic notice, electronically, that the owner's

1 property will escheat to the state pursuant to this chapter. The  
2 notice shall be mailed not less than six nor more than 12 months  
3 before the time when the owner's property held by the business  
4 becomes reportable to the Controller in accordance with this  
5 chapter. The face of the notice shall contain a heading at the top  
6 that reads as follows: "THE STATE OF CALIFORNIA  
7 REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED  
8 PROPERTY MAY BE TRANSFERRED TO THE STATE IF  
9 YOU DO NOT CONTACT US," or substantially similar language.  
10 The notice required by this subdivision shall specify the time when  
11 the property will escheat and the effects of escheat, including the  
12 need to file a claim in order for the owner's property to be returned  
13 to the owner. The notice required by this section shall, in boldface  
14 type or in a font a minimum of two points larger than the rest of  
15 the notice, exclusive of the heading, (1) specify that since the date  
16 of last activity, or for the last two years, there has been no owner  
17 activity on the deposit, account, shares, or other interest; (2)  
18 identify the deposit, account, shares, or other interest by number  
19 or identifier, which need not exceed four digits; (3) indicate that  
20 the deposit, account, shares, or other interest is in danger of  
21 escheating to the state; and (4) specify that the California  
22 Unclaimed Property Law requires ~~banks, banking organizations,~~  
23 ~~and financial organizations~~ *holders* to transfer funds of a deposit,  
24 account, shares, or other interest if it has been inactive for three  
25 years. It shall also include a form, as prescribed by the Controller,  
26 by which the owner may confirm the owner's current address. If  
27 that form is filled out, signed by the owner, and returned to the  
28 holder, it shall be deemed that the account, or other device in which  
29 the owner's property is being held, remains currently active and  
30 recommences the escheat period. In lieu of returning the form, the  
31 holder may provide a telephone number or other electronic means  
32 to enable the owner to contact the holder. With that contact, as  
33 evidenced by a memorandum or other record on file with the  
34 holder, the account or other device in which the owner's property  
35 is being held shall be deemed to remain currently active and shall  
36 recommence the escheat period. The holder may impose a service  
37 charge on the deposit, account, shares, or other interest for this  
38 notice in an amount not to exceed the administrative cost of mailing  
39 or electronically sending the notice and form, and in no case to  
40 exceed two dollars (\$2).



1 (c) In addition to the notice required pursuant to subdivision  
2 (b), the holder may give additional notice as described in  
3 subdivision (b) at any time between the date of last activity by, or  
4 communication with, the owner and the date the holder transfers  
5 the property to the Controller.

6 (d) For purposes of this section, “lawful charges” means charges  
7 which are specifically authorized by statute, other than the  
8 Unclaimed Property Law, or by a valid, enforceable contract.

9 ~~SEC. 2.~~

10 *SEC. 7.* Section 1540 of the Code of Civil Procedure is  
11 amended to read:

12 1540. (a) Any person, excluding another state, who claims an  
13 interest in property paid or delivered to the Controller under this  
14 chapter may file a claim to the property or to the net proceeds from  
15 its sale. The claim shall be on a form prescribed by the Controller  
16 and shall be verified by the claimant.

17 (b) The Controller shall consider each claim within 180 days  
18 after it is filed and may hold a hearing and receive evidence. The  
19 Controller shall give written notice to the claimant if he or she  
20 denies the claim in whole or in part. The notice may be given by  
21 mailing it to the address, if any, stated in the claim as the address  
22 to which notices are to be sent. If no address is stated in the claim,  
23 the notice may be mailed to the address, if any, of the claimant as  
24 stated in the claim. No notice of denial need be given if the claim  
25 fails to state either an address to which notices are to be sent or an  
26 address of the claimant.

27 (c) (1) The Controller shall add interest at the rate of 5 percent  
28 per year or the bond equivalent rate of 13-week United States  
29 Treasury bills, whichever is lower, to the amount of any claim paid  
30 to the owner under this section for the period the property was on  
31 deposit in the Unclaimed Property Fund. No interest shall be  
32 payable for any period prior to January 1, 1977. Any interest  
33 required to be paid by the state pursuant to this section shall be  
34 computed as simple interest, not as compound interest.

35 (2) For purposes of this section, the bond equivalent rate of  
36 13-week United States Treasury bills shall be defined in accordance  
37 with the following criteria:

38 (A) The bond equivalent rate of 13-week United States Treasury  
39 bills established at the first auction held during the month of

1 January shall apply for the following July 1 to December 31,  
2 inclusive.

3 (B) The bond equivalent rate of 13-week United States Treasury  
4 bills established at the first auction held during the month of July  
5 shall apply for the following January 1 to June 30, inclusive.

6 (d) A former holder of property who compensates the owner of  
7 the property for property that has escheated and been remitted to  
8 the state shall also pay the owner for interest as provided in  
9 subdivision (c). The former holder may apply for, and the  
10 Controller shall pay upon a properly submitted request,  
11 reimbursements of the principal and interest paid to the owner of  
12 the escheated property.

13 (e) For the purposes of this section, “owner” means the person  
14 who had legal right to the property prior to its escheat, his or her  
15 heirs, his or her legal representative, or a public administrator  
16 acting pursuant to the authority granted in Sections 7660 and 7661  
17 of the Probate Code.

18 (f) Following a public hearing, the Controller shall adopt  
19 guidelines and forms that shall provide specific instructions to  
20 assist owners in filing claims pursuant to this article.

21 ~~SEC. 3.~~

22 *SEC. 8.* Section 1565 of the Code of Civil Procedure is  
23 amended to read:

24 1565. Any property delivered to the Controller pursuant to this  
25 chapter that has no apparent commercial value shall be retained  
26 by the Controller for a period of not less than seven years from  
27 the date the property is delivered to the Controller. If the Controller  
28 determines that any property delivered to him or her pursuant to  
29 this chapter has no apparent commercial value, he or she may at  
30 any time thereafter destroy or otherwise dispose of the property,  
31 and in that event no action or proceeding shall be brought or  
32 maintained against the state or any officer thereof, or against the  
33 holder for, or on account of any action taken by, the Controller  
34 pursuant to this chapter with respect to the property.

35 ~~SEC. 4.~~

36 *SEC. 9.* Section 1576.5 is added to the Code of Civil Procedure,  
37 to read:

38 1576.5. The Controller shall establish a compliance program  
39 to identify holders of unclaimed property who are not in

- 1 compliance with the unclaimed property report filing requirements
- 2 of Section 1530.

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